

Remarks

Claims 1-10 and 18-39 have been cancelled and new claims 40-56 have been added. Claims 11-17 and 40-56 are now pending.

In response to the Examiner's Office Action, Applicant has amended the claims in reply to the Examiner's remarks, and has carefully considered the prior art and the Examiner's rejections. Applicant submits the claims as presented are allowable over the prior art.

The Examiner's Office Action notes that the claims as previously presented were interpreted as including "product by process" language (such as "first purges", "second purges") and that this language would not be given patentable weight. Furthermore, the Examiner noted he would apply a broad interpretation to the word "automatic" to mean "done or produced as if by machine". Based on these interpretive statements, the Examiner's Office Action cites three patent references as anticipatory of the claims.

Applicant first notes that the claims now presented have been refined to better specify the originally intended scope, namely, to cover an injector that is programmed to provide programmatic purging. In the language of claim 11, the injector includes a "control circuit programmed to control said injector through a purge routine to automatically purge substantially all of the air from the first and second syringes and the Y tubing and configured with a separate function to programmatically control said injector to inject fluid into a patient". In the language of new claim 45, the injector is "programmed to initiate an automatic purge protocol" which "results in a purge of substantially all of the air from the first and second syringes and the Y

tubing and in allowing a substantial majority of the first and second medical fluids to remain in the respective first and second syringes for a subsequent injection protocol.”

Two points should be noted. First, the new claim language does not recite “product by process” limitations that the Examiner may ignore, but rather recites specific attributes of an injector, namely, that it has a control circuit that is “programmed to control” the injector to perform the purge routine, or alternatively, has a “processor programmed to initiate an automatic purge protocol”. The programming included in an injector is an attribute of the injector, and an injector that has such programming differs in its attributes as a device, from an injector that lacks such programming. Thus, the Examiner’s interpretation of the prior claims so as to eliminate process limitations, cannot be applied to the claims as now presented.

Second, it should be noted that the programmed “purge” activity recited in the claims, differs from and is separate and apart from programmed injection. In the language of claim 11, it is clarified that there is a “separate function to programmatically control said injector to inject fluid into a patient”, and in the language of claim 45, there is a separate recitation of the “purge protocol” and “injection protocol”, and the clarification that the “purge protocol” “allow[s] a substantial majority of the first and second medical fluids to remain in the respective first and second syringes for a subsequent injection protocol”. Thus, an injector having only programmatic injection functions, but lacking a separate purge function, does not meet the claim language.

With this backdrop, Applicant notes that none of the three references identified by the Examiner describes or suggests a programmed function for purging a syringe. Rather, the

Examiner has cited these references merely for showing a mechanical injector that is capable of operation in a way that would perform a purge function. As the claims clearly recite an injector having the feature of a programmed purge function, the three references cited are clearly neither anticipatory nor suggestive of the claimed invention.

Applicant thus requests the early issuance of a Notice of Allowance.

If any petition for extension of time is necessary to accompany this communication, please consider this paper a petition for such an extension of time, and apply the appropriate extension of time fee to Deposit Account 23-3000. If any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

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